

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, DC 20554

RECEIVED**AUG 24 1994**

In the Matter of)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY
 Revision of Part 2 of the)
 Commission's Rules Relating to the)
 Marketing and Authorization of)
 Radio Frequency Devices)

 ET Docket No. 94-45
 RM-8125

COMMENTS OF THE
NATIONAL ASSOCIATION OF BROADCASTERS

I. INTRODUCTION

The National Association of Broadcasters ("NAB")¹ hereby submits these Comments ("Comments") in response the Notice of Proposed Rule Making ("Notice") in the above-captioned proceeding.² In the Notice, the Commission seeks to amend Part 2, Subpart I of its Rules regarding the marketing regulations and equipment authorization procedures that apply to radio frequency (RF) devices. The Commission has stated in the Notice that the proposed changes are intended to remove certain inconsistencies in the existing Rules and to consolidate in the Rules a number of interpretations issued earlier by the Commission in letters and public notices.³

¹NAB is a nonprofit, incorporated association of radio and television stations and networks which serves and represents the American broadcast industry.

²See Notice of Proposed Rule Making in ET Docket No. 94-45, RM-8125, 9 FCC Rcd 2702.

³See id., ¶ 1.

The Notice also is in partial response to a Petition for Rule Making ("Petition") filed by the Consumer Electronics Group of the Electronic Industries Association ("EIA/CEG").⁴ The Petition argued that the existing marketing rules contained in Part 2 are applied inconsistently, thus causing industry confusion and unfairly excluding consumer electronic products from various opportunities to be promoted to potential customers.

On December 24, 1992, NAB filed comments on the Petition. While our Comments generally supported EIA/CEG's request, we recommended that the Commission not create new rules that would grant overly broad relief from the existing regulatory scheme, in that such an action could lead to interference problems.

II. NAB SUPPORTS GENERALLY THE COMMISSION'S PROPOSALS TO AMEND PART 2, SUBPART I OF ITS RULES.

Again, NAB supports generally the Commission's proposals in this proceeding. NAB agrees the existing rules relating to the marketing of RF devices are, in some respects, inconsistent and confusing and that they should be simplified and clarified for the benefit of manufacturers desiring to demonstrate such products, particularly at industry trade shows.

NAB further believes, however, that the proposed amendment to Section 2.803⁵ achieves the Commission's stated goal but is not so overly broad or general as to

⁴See Petition for Rule Making of the EIA/CEG (RM-8125), submitted October 16, 1992.

⁵See Notice, supra note 2, Appendix B.

allow anyone to demonstrate any RF device anywhere they wish. The new-proposed regulations would provide the requisite clarity and, at the same time, protect authorized radio services from unwarranted interference. As such, NAB applauds the Commission's efforts.

III. THE COMMISSION SHOULD PROCEED CAUTIOUSLY WITH RESPECT TO MODIFICATION OF AUTHORIZED EQUIPMENT.

The Commission has proposed to relieve the grantee of an equipment authorization of the responsibility to ensure that the product continues to comply with the RF regulation after that product has been modified by someone other than the authorization grantee. The Commission also proposes to require specifically that the party modifying the product be held responsible for ensuring the equipment compliance. Further, the FCC has proposed that equipment that has been modified be labelled accordingly.

NAB supports the Commission's initiative in this matter as well. But, while we agree with and strongly support the Commission's proposal, NAB is concerned that those companies that routinely modify equipment will not have sufficient incentive to seek proper authorization after the device has been modified.

Particularly with regard to digital computing devices, it has become commonplace, if not standard procedure, for retailers to offer different "options" for computers sold to consumers. NAB believes that, notwithstanding the efforts of manufacturers to obtain authorization for multiple configurations of their product prior to distribution, it is equally commonplace for retailers to ignore the Commission's regulations and offer for sale unauthorized equipment, often because they are unaware of the

Commission's regulations. NAB urges the Commission to ensure that its regulations have sufficient "teeth" to act as a deterrent to those that would offer unauthorized devices for sale.

IV. CONCLUSION

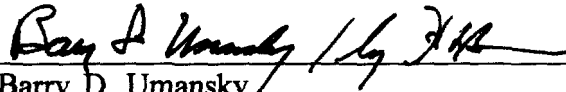
NAB applauds and supports the Commission's efforts to clarify its regulations regarding the marketing of RF devices. We also urge the Commission to proceed cautiously with regard to regulations concerning the modification of digital devices.

Respectfully submitted,

NATIONAL ASSOCIATION OF BROADCASTERS
1771 N Street, NW
Washington, DC 20036



Henry L. Baumann
Executive Vice President & General Counsel



Barry D. Umansky
Deputy General Counsel

Kelly T. Williams
Director of Engineering
NAB Science & Technology

August 24, 1994

CERTIFICATE OF SERVICE

I, Judith L. Gerber, do hereby certify that a true and correct copy of the foregoing "Comments of the National Association of Broadcasters" in ET Docket No. 94-45 was sent, via first class mail, on this date, August 24, 1994, to the following:

The Honorable Reed Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W.
Room 814 -- Stop Code 0101
Washington, DC 20554

The Honorable James H. Quello
Federal Communications Commission
1919 M Street, N.W.
Room 802 -- Stop Code 0106
Washington, DC 20554

The Honorable Andrew C. Barrett
Federal Communications Commission
1919 M Street, N.W.
Room 826 -- Stop Code 0105
Washington, DC 20554

The Honorable Rachelle Chong
Federal Communications Commission
1919 M Street, N.W.
Room 844 -- Stop Code 0103
Washington, DC 20554

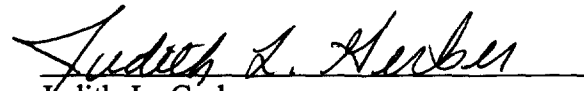
The Honorable Susan Ness
Federal Communications Commission
1919 M Street, N.W.
Room 832 -- Stop Code 0104
Washington, DC 20554

Richard M. Smith, Chief
Office of Engineering & Technology
Federal Communications Commission
2025 M Street, NW
Room 7002
Washington, DC 20554

John A. Reed
Office of Engineering & Technology
Federal Communications Commission
2025 M Street, NW
Room 7122-C
Washington, DC 20554

George A. Hanover
Suzanne M. Heaton
Consumer Electronics Group
Electronic Industries Association
2001 Pennsylvania Avenue, NW
Washington, DC 20006

James L. Casserly, Esq.
Jody D. Newman, Esq.
Squire, Sanders & Dempsey
1201 Pennsylvania Avenue, NW
PO Box 407
Washington, DC 20044


Judith L. Gerber